

Emergency Rule
LSA Document #10-741(E)

DIGEST

Temporarily governs the licensure of water well drillers and water well pump installers, including water well pump installations and continuing education, includes standards to assist with the implementation of P.L.84-2010 (SEA 356-2010), clarifies existing language, and makes technical corrections. Effective January 1, 2011.

SECTION 1. This document assists in implementation of [IC 25-39](#) and supplements [312 IAC 13](#).

SECTION 2. (a) Except as provided in subsection (c) of this SECTION, the definitions contained in [IC 14-8-2](#), [IC 25-39-2](#), [312 IAC 1](#), and [312 IAC 13-1](#) apply throughout this document.

(b) In addition to the definitions contained in subsection (a), the follow definitions apply:

- (1) "Available drawdown" means the distance between the static water level and the pump setting.
- (2) "Bedrock formation" means a consolidated water-bearing material that has the ability to receive, store, and transmit water in an amount sufficient to satisfy a beneficial use.
- (3) "Business day" has the meaning set forth in [610 IAC 6-1-2](#)
- (4) "Competency examination" means an examination given by the department that is designed to establish the capability and skill of an individual to operate as a water well driller or water well pump installer.
- (5) "Direct supervision" means to be physically present, on the job site, or otherwise in close proximity so as to be able to respond promptly and effectively in person.
- (6) "Personal use" means the use of a water well or water well pumping equipment for water supply purposes if either:
 - (A) located on property owned or in possession of a person as defined in [IC 14-8-2-202](#); or
 - (B) with respect to a public water supply utility, possessed by a permanent employee of the public water supply utility.
- (7) "Pitless adapter" means an assembly of parts that:
 - (A) allows water to pass through the wall of the well casing or extension of the well casing;
 - (B) provides access to the well and the parts of the pumping system within the well;
 - (C) provides for the transportation of water; and
 - (D) protects the well from contamination at or near the surface.
- (8) "Pitless unit" means a factory assembled device consisting of the pitless adapter, a mechanism which attaches to the well casing, and a well casing riser in a single unit to prevent contaminants from entering the well.
- (9) "Public water supply well" means a well that provides a source of water to a public water system that serves either of the following:
 - (A) at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents; or
 - (B) at least fifteen (15) service connections used by nonresidents or regularly serves twenty-five (25) or more nonresident individuals daily for at least sixty (60) days per year.
- (10) "Pump installation" means placement and preparation for operation of equipment and materials used in withdrawing or obtaining water from a well. The term includes construction to enter the well and to establish seals and safeguards to protect water from contamination. The term does not apply, however, to activities in association with a monitoring well or a dewatering well.
- (11) "Well cap" means a welded, threaded, glued, or mechanically attached apparatus which:
 - (A) overlaps the top of the well casing or pitless unit with a downward flange; and
 - (B) encloses the atmospheric termination of a well casing or pitless unit.
- (12) "Well seal" means a device used to establish a watertight closure at the atmospheric termination of the well casing or pitless unit to prevent contaminants and other materials from entering a well.
- (13) "Well vent" means an opening at the upper terminal of a well to provide:
 - (A) equalization of air pressure in the well; or
 - (B) release of gases.

(c) The definitions contained in [312 IAC 13-1-8](#) and [312 IAC 13-1-20](#) are superseded.

SECTION 3. (a) Notwithstanding [312 IAC 13-2-1](#), an initial application for a license as a water well

driller or water well pump installer must be completed on a departmental form and must include the following:

- (1) The name, current address, telephone number, and birth date of the applicant.
- (2) The type of drilling or pump installation equipment the applicant uses, and the number of years the applicant has operated that type of equipment.
- (3) The applicable employment experience of the applicant.
- (4) The signature of the applicant attesting to or affirming the accuracy of the information on the application.
- (5) The license fee established under section 2 of this rule.
- (6) Statements by references under [IC 25-39-3-3\(a\)\(2\)](#).

(b) Subsequent applications must provide what is required in subsection (a)(1), (a)(4), and (a)(5) of this SECTION.

SECTION 4. (a) Notwithstanding [312 IAC 13-2-2](#), the fee to accompany any application for a license as a water well driller or water well pump installer is one hundred dollars (\$100) for a calendar year.

(b) A person who is issued a license as a water well driller or water well pump installer may apply to the department for a duplicate license (which is effective during the same calendar year) if the original license is lost, stolen, destroyed, or otherwise becomes unavailable to the driller or pump installer.

SECTION 5. (a) Notwithstanding [312 IAC 13-2-3](#), a license may be renewed for the following year, without examination, under section 1(b) of this rule.

(b) An applicant for license renewal in each even-numbered year must include a copy of forms verifying the hours of approved continuing education completed and must attest to compliance with all continuing education requirements.

(c) If at least one (1) year has passed since a person's license expired, the person must again satisfy a competency examination, complete an application, and submit a license fee before restoration of the license.

(d) A water well driller or water well pump installer must deliver a completed renewal application form to the division at least five (5) working days before the renewal is to become effective.

SECTION 6. (a) A licensed water well driller who has held a license for at least one (1) calendar year must complete at least six (6) hours of approved continuing education before December 31 of each even-numbered year and must retain the following information for each course completed:

- (1) The number of hours spent in the continuing education course.
- (2) The name of the person or organization presenting the continuing education course.
- (3) The date, location, and title of the continuing education course.
- (4) The number of hours of continuing education awarded for the course.

(b) A licensed water well pump installer who has held a license for at least one (1) calendar year must complete at least six (6) hours of approved continuing education before December 31 of each even-numbered year and must retain the following information for each course completed:

- (1) The number of hours spent in the continuing education course.
- (2) The name of the person or organization presenting the continuing education course.
- (3) The date, location, and title of the continuing education course.
- (4) The number of hours of continuing education awarded for the course.

(c) A licensed water well driller and a licensed water well pump installer must maintain verification of attendance in a continuing education course for at least three (3) years.

SECTION 7. (a) The department may approve for credit a continuing education course, under the purposes of this document, which addresses any one (1) of the following topics:

- (1) Water well construction, rehabilitation, and abandonment.
- (2) Installation and repair of water well pumping equipment.
- (3) Grouting of water wells.
- (4) Water well disinfection and water sample collection.
- (5) Pumping test procedures and ground water resource evaluations.

- (6) Evaluation and remediation of ground water contamination.
- (7) Another topic approved by the department under [IC 25-39](#).

(b) A person applying for approval of a continuing education course must provide the following information to the department:

- (1) The name of the person or organization presenting the continuing education course.
- (2) The title of the course and subjects that will be presented.
- (3) The date, location, and time schedule of the course.
- (4) The number of hours of continuing education to be awarded for the course.
- (5) A course outline for each subject to be offered.
- (6) The fee to be charged for each course.
- (7) Any other information reasonably requested by the department.

(c) An application for approval of a continuing education course must be received by the department no less than thirty (30) days before the date scheduled for the course. The department shall approve, approve with conditions, or deny the application no more than ten (10) business days after receiving the application.

(d) Not more than forty-five (45) days after the continuing education course is concluded, the person conducting the course must submit the following to the department on a departmental form:

- (1) The name of the person or organization presenting the continuing education course.
- (2) The title of the course.
- (3) The date, location, and time schedule of the course.
- (4) The name of each individual attending the course.
- (5) The well driller license number, pump installer license number, or both for each person attending the course.
- (6) The number of hours of continuing education each person received.

(e) The department shall maintain and make available to the public a list of future courses that are approved to meet the continuing education requirements of this rule.

SECTION 8. A licensed water well driller or water well pump installer may apply in writing to the department for a waiver or modification of the continuing education requirements of this document if the well driller or pump installer:

- (1) establishes that an emergency existed during the period for which the continuing education was required;
- (2) has had an incapacitating illness verified by the applicant and a licensed physician; or
- (3) was prevented from completing the continuing education requirement because of active military duty during the period for which the continuing education was required.

SECTION 9. A water well driller must submit accurate drilling records, as required under [312 IAC 13-2-6](#), within thirty (30) days after completion of a well.

SECTION 10. The requirements applicable to a water well driller under [312 IAC 13-3-1](#) also apply to a water well pump installer.

SECTION 11. Notwithstanding [312 IAC 13-4-3\(d\)](#), a pitless adapter shall be constructed and installed to accomplish both of the following:

- (1) prevent the entrance of contaminants through openings in the well casing to which the adapter is attached; and
- (2) provide consistency with the Water Systems Council listing of products for PAS-97(04).

SECTION 12. Unless otherwise approved by the department, a water well that is completed:

- (1) in an unconsolidated formation shall be equipped with a pumping apparatus that provides at least twenty (20) feet of available drawdown; or
- (2) in a bedrock formation shall be equipped with a pumping apparatus that provides at least fifty (50) feet of available drawdown.

SECTION 13. (a) Notwithstanding [312 IAC 13-8-1](#), this SECTION establishes standards for drilling ground water heat pump systems that are in addition to the general requirements for drilling a well under [312 IAC 13](#) and this document.

(b) If a return well is used with an open loop system, its design shall provide a water transmitting capacity that is at least one and one-half (1 1/2) times the required water supply of the heat pump unit.

(c) With respect to a vertical closed loop system, boreholes shall be pressure grouted from the bottom of the borehole to the ground surface with a high solids bentonite grout that may contain sand to enhance thermal conductivity.

SECTION 14. Notwithstanding [312 IAC 13-10-2](#)(c), a well abandoned after December 31, 1987, shall be plugged by a water well driller or water well pump installer with an impervious grouting material to prevent the following:

- (1) Migration of materials or fluids in the well.
- (2) Loss of pressure in a confined aquifer.

SECTION 15. Notwithstanding [312 IAC 13-10-2](#)(e)(4) and unless otherwise approved by the department, a cased well shall be plugged as follows:

- (1) With neat cement, bentonite slurry, or medium grade or coarse grade crushed or pelletized bentonite from the bottom of the well to within two (2) feet below the ground surface.
- (2) The well casing shall be severed at least two (2) feet below the ground surface, and a cement plug larger in diameter than the borehole shall be as follows:
 - (A) constructed over the borehole; and
 - (B) covered with natural clay material to the ground surface.

SECTION 16. Notwithstanding [312 IAC 13-11-1](#), a conservation officer or another representative of the department may observe a water well or pump installation and may inspect equipment used to drill a well or install a pump. A water well driller or water well pump installer must promptly correct work that does not comply with [IC 25-39](#), [312 IAC 13](#), or this document. Work that is covered contrary to the request of a department representative must, upon request, be uncovered for inspection and replaced by the water well driller or pump installer.

SECTION 17. Notwithstanding [312 IAC 13-11-2](#), a conservation officer or another representative of the department may, at any reasonable time, inspect any record maintained by a water well driller or water well pump installer that is needed to comply with [IC 25-39](#), [312 IAC 13](#), or this document.

SECTION 18. (a) Notwithstanding [312 IAC 13-12](#), SECTION 19 through SECTION 22 of this document [*SECTIONS 19 through 22 of this document*] govern enforcement of [IC 25-39](#), [312 IAC 13](#), and this document.

(b) This SECTION does not limit the authority to enforce [IC 25-39](#), [312 IAC 13](#), or this document through any other lawful method.

(c) This SECTION does not establish a basis for an action against a water well driller or water well pump installer by a person other than the department.

SECTION 19. (a) The division may seek to suspend or revoke the license of a water well driller or water well pump installer who has done any of the following:

- (1) Acted as a well driller or water well pump installer without a license in violation of [IC 25-39](#).
- (2) Secured a license through error or fraud.
- (3) Failed to comply with the requirements set forth in any of the following:
 - (A) [IC 25-39-4-1](#), [IC 25-39-4-2](#), [IC 25-39-4-4](#), [IC 25-39-4-5](#), or [IC 25-39-4-6](#).
 - (B) [312 IAC 13-2](#) through [312 IAC 13-10](#).

(b) An action under this SECTION is governed by [IC 4-21.5-3-6](#) and shall be initiated by the division with the issuance of a written notice directed to the person who is the subject of the action. The notice shall include the following:

- (1) A brief description of the order for suspension or revocation. An order for a license suspension shall not exceed a period of effectiveness that exceeds ninety (90) days.
- (2) A declaration that the recipient of the order may seek:
 - (A) a stay of effectiveness of the suspension or revocation;
 - (B) review of the suspension or revocation; or
 - (C) both a stay of effectiveness and review of the suspension or revocation;by making a written request within eighteen (18) days of issuance addressed to:
Director, Division of Hearings

Natural Resources Commission
Indiana Government Center North
100 North Senate Avenue, Room N501
Indianapolis, Indiana 46204-2200

(c) An order issued by the division under subsection (b) of this SECTION is effective fifteen (15) days after issuance unless the recipient of the order obtains a stay of effectiveness. This subsection does not preclude the department from issuing, under [IC 4-21.5-4](#), an emergency or other temporary order with respect to the license.

SECTION 20. (a) The division may refuse to grant, renew, or restore a license to a person who has done any of the following:

- (1) Acted as a well driller or water well pump installer without a license in violation of [IC 25-39](#).
- (2) Secured a license through error or fraud.
- (3) Failed to comply with the requirements set forth in any of the following:
 - (A) [IC 25-39-4-1](#), [IC 25-39-4-2](#), [IC 25-39-4-4](#), [IC 25-39-4-5](#), or [IC 25-39-4-6](#).
 - (B) [312 IAC 13-2](#) through [312 IAC 13-10](#).

(b) An action under this SECTION is governed by [IC 4-21.5-3-5](#) and shall be initiated by the division with the issuance of a written notice directed to the applicant and to any person who has requested notice under [IC 4-21.5-3-5\(b\)\(4\)](#). The notice shall include the following:

- (1) A brief description of the denial order and the basis for the denial.
- (2) A declaration that the recipient of the order may seek administrative review by making a written request within eighteen (18) days of issuance addressed to:
Director, Division of Hearings
Natural Resources Commission
Indiana Government Center North
100 North Senate Avenue, Room N501
Indianapolis, Indiana 46204-2200

(c) If the division orders the denial of a license renewal, and a timely and sufficient application was made for renewal of the license, the existing license does not expire until the commission has disposed of a proceeding. This subsection does not preclude the department from issuing, under [IC 4-21.5-4](#), an emergency or other temporary order with respect to the license.

SECTION 21. (a) The commission may consider the factors set forth in this SECTION in conducting administrative review of an order issued by the department under SECTION 19 or SECTION 20 of this document *[SECTION 19 or 20 of this document]*.

(b) Mitigating factors are as follows:

- (1) The person against whom action is taken has not previously been adjudicated by the commission or a court to have violated [IC 25-39](#) or this article.
- (2) The violation appears to have been unintentional.
- (3) The violation was an isolated occurrence.
- (4) Contamination is unlikely to have occurred as a result of the violation.
- (5) Where a violation has occurred, the person has acted diligently to correct the violation.

(c) Aggravating factors are as follows:

- (1) The person against whom action is taken has previously been adjudicated by the commission or a court to have violated [IC 25-39](#) or this article.
- (2) The violation appears to have been intentional.
- (3) A pattern of violations has occurred.
- (4) Significant contamination is likely to have occurred as a result of the violation.
- (5) A hazard to human health is likely to have occurred as a result of the violation.

SECTION 22. (a) The department may issue a complaint for a notice of violation under [IC 14-10-2-6](#) against a person who violates [IC 25-39-5](#). The complaint shall be filed under [312 IAC 3-1](#) and is subject to [IC 4-21.5-3-8](#). The division of hearings of the commission shall cause the complaint to be served upon the parties named in the complaint.

(b) The department has the burden of proving, by a preponderance of the evidence, any violation

alleged in the complaint.

(c) A separate notice of violation may be issued or a separate charge imposed for each day a violation occurs.

(d) The person who is the subject of the complaint may establish as an affirmative defense the filing by a prosecuting attorney of a misdemeanor information or infraction complaint based on the same event as that upon which the notice of violation was based. The person has the burden of proving the affirmative defense.

(e) If, following a completed proceeding under [IC 4-21.5](#), the commission finds the violation occurred, the commission shall order the person to abate the violation within a reasonable period of time. The abatement period shall not be less than fifteen (15) days. The order shall also specify that, if the violation is not abated within the specified time, the person shall pay a charge that does not exceed the maximum amount that may be assessed by a court for committing the violation as an infraction or misdemeanor.

SECTION 23. (a) This SECTION governs administrative review of any order by the department under [IC 25-39](#), [312 IC 39](#), or this document that is not governed by SECTION 17 through SECTION 22 of this document [*SECTIONS 17 through 22 of this document*].

(b) A person who wishes to seek administrative review must comply with [IC 4-21.5](#) and [312 IAC 3-1](#).

(c) For the purposes of this document, an order includes the following:

(1) A determination to approve, condition, or deny a continuing education course under SECTION 7 [*of this document*].

(2) A determination whether a person has completed satisfactorily a competency examination under [IC 25-39-3-4](#).

(3) Any other order as defined at [IC 4-21.5-1-9](#).

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